

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JUDY WILLIAMS, individually and on behalf  
of all others similarly situated,

Plaintiff,

V.

WELLS FARGO BANK, N.A.,

Defendant.

Case No.: 07 cv 6342

Judge Der-Yeghiayan

Magistrate Judge Valdez

**DEFENDANT WELLS FARGO BANK, N.A.'S  
ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT**

Defendant Wells Fargo Bank N.A. (“Wells Fargo”) hereby answers the allegations of the Complaint filed in this action by plaintiff Judy Williams (“Plaintiff”).

## Introduction

1. Answering Paragraph 1 of the Complaint, Wells Fargo admits that Plaintiff purports to assert claims against Wells Fargo under the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, and the Civil Rights Act, 42 U.S.C. §§ 1981, 1982 *et seq.* but denies any liability under the referenced statutes. Except as expressly admitted herein, Wells Fargo denies the remaining allegations of Paragraph 1.

2. Answering Paragraph 2 of the Complaint, Wells Fargo admits that Plaintiff purports to assert claims on behalf of herself and of a proposed national class. Except as expressly admitted herein, Wells Fargo denies the remaining allegations of Paragraph 2.

3. Paragraph 3 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein.

4. Paragraph 4 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 4 is construed as requiring an answer, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers.

5. Paragraph 5 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein.

6. Paragraph 6 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 6 is construed as requiring an answer, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers.

7. Paragraph 7 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 7 is construed as requiring an answer, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers.

8. Paragraph 8 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 8 is construed as requiring an answer, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers.

9. Paragraph 9 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 9 is construed as requiring an answer, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers.

10. Paragraph 10 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 10 is construed as requiring an answer, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers.

11. Answering Paragraph 11 of the Complaint, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers. As to the remaining allegations of Paragraph 11, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

12. Answering Paragraph 12 of the Complaint, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers. As to the remaining allegations of Paragraph 12, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

The Parties

13. Answering Paragraph 13 of the Complaint, Wells Fargo admits that, on June 29, 2006, Plaintiff purchased a condominium unit located at 1360 East Madison Park, #B, Chicago, Illinois and that Wells Fargo entered into a loan transaction with Plaintiff in relation to that purchase. Further answering Paragraph 13, Wells Fargo admits that Plaintiff paid approximately \$7,550.00 in earnest money. As to the remaining allegations of Paragraph 13, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

14. Answering Paragraph 14 of the Complaint, Wells Fargo admits that Plaintiff entered into two loan transactions, the first a thirty-year ARM for \$133,600.00 at an initial rate of 8.125% and the second a thirty-year loan for \$33,400.00 at a fixed rate of 12.5%. Further

answering Paragraph 14, Wells Fargo admits that, on July 1, 2008, Plaintiff's first loan may adjust to new rate between 5.125% and 11.125%, per the terms of the loan Plaintiff executed. As to the remaining allegations of Paragraph 14, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations..

15. Answering Paragraph 15 of the Complaint, Wells Fargo admits that Plaintiff executed a Prepayment Rider that provides, "If within the first year after the execution of the Security Instrument I make full prepayment, I will pay a prepayment charge in an amount equal to three percent (3%) of the original principal amount. If within the second year after the execution of the Security Instrument I make full prepayment, I will pay a prepayment charge in an amount equal to two percent (2%) of the original principal amount." As to the remaining allegations of Paragraph 15, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

16. Answering Paragraph 16 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

17. Answering Paragraph 17 of the Complaint, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers. As to the remaining allegations of Paragraph 17, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

Defendant

18. Answering Paragraph 18 of the Complaint, Wells Fargo admits that it is a mortgage lender and that it maintains a branch at 464 California St., San Francisco, California,

94104. Except as expressly admitted herein, Wells Fargo denies the remaining allegations of Paragraph 18.

Jurisdiction and Venue

19. Answering Paragraph 19 of the Complaint, Wells Fargo admits that this court has original jurisdiction over civil actions arising under federal law.

20. Answering Paragraph 20 of the Complaint, Wells Fargo admits that venue is proper in this Court. Except as expressly admitted herein, Wells Fargo denies the remaining allegations of Paragraph 20.

Class Action Allegations

21. Answering Paragraph 21 of the Complaint, Wells Fargo admits that Plaintiff purports to assert claims against Wells Fargo on behalf of a purported class of minority borrowers who allegedly entered into residential mortgage loans with Wells Fargo. Except as expressly admitted herein, Wells Fargo denies the remaining allegations of Paragraph 21.

22. Answering Paragraph 22 of the Complaint, Wells Fargo denies the allegations contained therein.

23. Answering Paragraph 23 of the Complaint, Wells Fargo denies the allegations contained therein.

24. Answering Paragraph 24 of the Complaint, Wells Fargo denies the allegations contained therein.

25. Answering Paragraph 25 of the Complaint, Wells Fargo denies the allegations contained therein.

26. Answering Paragraph 26 of the Complaint, Wells Fargo denies the allegations contained therein.

27. Answering Paragraph 27 of the Complaint, Wells Fargo denies the allegations contained therein.

28. Answering Paragraph 28 of the Complaint, Wells Fargo denies the allegations contained therein.

29. Answering Paragraph 29 of the Complaint, Wells Fargo denies the allegations contained therein.

30. Answering Paragraph 30 of the Complaint, Wells Fargo denies the allegations contained therein.

31. Answering Paragraph 31 of the Complaint, Wells Fargo denies the allegations contained therein.

Fraudulent Concealment/Equitable Tolling

32. The first sentence of Paragraph 32 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that the first sentence of Paragraph 32 is construed as requiring an answer, Wells Fargo denies such allegations. Answering the second sentence of Paragraph 32 of the Complaint, Wells Fargo denies the allegations contained therein.

33. Answering Paragraph 33 of the Complaint, Wells Fargo denies the allegations contained therein.

34. Answering Paragraph 34 of the Complaint, Wells Fargo denies the allegations contained therein.

35. Answering Paragraph 35 of the Complaint, Wells Fargo denies the allegations contained therein.

36. Answering Paragraph 36 of the Complaint, Wells Fargo denies the allegations contained therein.

37. Answering Paragraph 37 of the Complaint, Wells Fargo denies the allegations contained therein.

Factual Allegations

38. Answering Paragraph 38 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

39. Answering Paragraph 39 of the Complaint, Wells Fargo admits that Wells Fargo Home Mortgage is a division of Wells Fargo Bank, N.A.

40. Answering Paragraph 40 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

41. Paragraph 41 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 41 is construed as requiring an answer, lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

42. Paragraph 42 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 42 is construed as requiring an answer, Wells Fargo admits that information produced by Harvard University's Joint Center for Housing Studies speaks for itself. Except as so admitted, Wells Fargo lacks sufficient information to admit or deny the allegations contained in Paragraph 42 and, on that basis, denies the allegations.

43. Paragraph 43 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 43 is construed as requiring an answer, Wells Fargo denies such allegations.

44. Paragraph 44 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 44 is construed as requiring an answer, Wells Fargo admits that the September 5, 2007 study released by ACORN speaks for itself. Except as so admitted, Wells Fargo lacks sufficient information to admit or deny the allegations contained in Paragraph 44 and, on that basis, denies the allegations.

45. Paragraph 45 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 45 is construed as requiring an answer, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

46. Answering Paragraph 46 of the Complaint, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers. As to the remaining allegations of Paragraph 46, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

47. Paragraph 47 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 47 is construed as requiring an answer, Wells Fargo lacks sufficient



information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

48. Paragraph 48 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 48 is construed as requiring an answer, Wells Fargo admits that U.S. Department of Housing and Urban Development study cited speaks for itself. Except as so admitted, Wells Fargo lacks sufficient information to admit or deny the allegations contained in Paragraph 48 and, on that basis, denies the allegations.

49. Paragraph 49 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein. To the extent that Paragraph 49 is construed as requiring an answer, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers.

50. Answering Paragraph 50 of the Complaint, Wells Fargo admits that its website speaks for itself. As to the remaining allegations of Paragraph 50, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

51. Answering Paragraph 51 of the Complaint, Wells Fargo denies the allegations contained therein.

52. Answering Paragraph 52 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

53. Answering Paragraph 53 of the Complaint, Wells Fargo denies the allegations contained therein.

54. Answering Paragraph 54 of the Complaint, Wells Fargo admits that its website speaks for itself. As to the remaining allegations of Paragraph 54, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

55. Answering Paragraph 55 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

56. Answering Paragraph 56 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

57. Answering Paragraph 57 of the Complaint, Wells Fargo admits that it enters into agreements with brokers to accept loan applications for Wells Fargo loans and communicates financing terms and rates to brokers. Except as expressly admitted herein, Wells Fargo denies the allegations of Paragraph 57.

58. Answering Paragraph 58 of the Complaint, Wells Fargo denies the allegations contained therein.

59. Answering Paragraph 59 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

60. Answering Paragraph 60 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

61. Answering Paragraph 61 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

62. Answering Paragraph 62 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

63. Answering Paragraph 63 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

64. Answering Paragraph 64 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

65. Answering Paragraph 65 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

66. Answering Paragraph 66 of the Complaint, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers. As to the remaining allegations of Paragraph 66, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

67. Answering Paragraph 67 of the Complaint, Wells Fargo denies the allegations contained therein.

68. Answering Paragraph 68 of the Complaint, Wells Fargo denies that it participated in discriminatory treatment of minority borrowers. As to the remaining allegations of Paragraph

68, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

69. Answering Paragraph 69 of the Complaint, Wells Fargo denies the allegations contained therein.

Count I

70. Answering Paragraph 70 of the Complaint, Wells Fargo repeats and realleges each of the answers in Paragraphs 1 through 69, above, as though the same were set forth in full herein.

71. Answering Paragraph 71 of the Complaint, Wells Fargo denies the allegations contained therein.

72. Answering Paragraph 72 of the Complaint, Wells Fargo denies the allegations contained therein.

73. Paragraph 73 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein.

74. Answering Paragraph 74 of the Complaint, Wells Fargo denies the allegations contained therein.

75. Answering Paragraph 75 of the Complaint, Wells Fargo denies the allegations contained therein.

76. Answering Paragraph 76 of the Complaint, Wells Fargo denies the allegations contained therein.

77. Answering Paragraph 77 of the Complaint, Wells Fargo denies the allegations contained therein.

78. Answering Paragraph 78 of the Complaint, Wells Fargo denies the allegations contained therein.

79. Answering Paragraph 79 of the Complaint, Wells Fargo denies the allegations contained therein.

Count II

80. Answering Paragraph 80 of the Complaint, Wells Fargo repeats and realleges each of the answers in Paragraphs 1 through 79, above, as though the same were set forth in full herein.

81. Paragraph 81 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein.

82. Answering Paragraph 82 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

83. Answering Paragraph 83 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

84. Answering Paragraph 84 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

85. Answering Paragraph 85 of the Complaint, Wells Fargo denies the allegations contained therein.

86. Answering Paragraph 86 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

87. Answering Paragraph 87 of the Complaint, Wells Fargo lacks sufficient information to admit or deny the allegations contained therein and, on that basis, denies the allegations.

88. Answering Paragraph 88 of the Complaint, Wells Fargo denies the allegations contained therein.

89. Answering Paragraph 89 of the Complaint, Wells Fargo denies the allegations contained therein.

### Count III

90. Answering Paragraph 90 of the Complaint, Wells Fargo repeats and realleges each of the answers in Paragraphs 1 through 89, above, as though the same were set forth in full herein.

91. Paragraph 91 of the Complaint does not make any material allegations concerning Wells Fargo and, on that basis, Wells Fargo does not respond to the statements contained therein.

92. Answering Paragraph 92 of the Complaint, Wells Fargo denies the allegations contained therein.

93. Answering Paragraph 93 of the Complaint, Wells Fargo denies the allegations contained therein.

94. Answering Paragraph 94 of the Complaint, Wells Fargo denies the allegations contained therein.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

1. Wells Fargo alleges as an affirmative defense that the Complaint, and each cause of action asserted therein, fails to allege sufficient facts to state any claim for which relief can be granted to Plaintiff because it fails to allege a discriminatory practice or disparate impact on Plaintiff.

**SECOND AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

2. Wells Fargo alleges as an affirmative defense that Plaintiff's claims are barred by any and all applicable statutes of limitations.

**THIRD AFFIRMATIVE DEFENSE**

**(Waiver)**

3. Wells Fargo alleges as an affirmative defense that Plaintiff has waived any and all claims, rights and demands made in the Complaint because she accepted the terms of any and all loans obtained from Wells Fargo.

**FOURTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

4. Wells Fargo alleges as an affirmative defense that Plaintiff is barred by the doctrine of estoppel from asserting the claims, rights and demands made in the Complaint, because Wells Fargo reasonably and justifiably relied on its loan contracts with Plaintiff, and upon the terms and conditions stated therein, and funded the loans to Plaintiff's benefit.

**FIFTH AFFIRMATIVE DEFENSE**

**(Business Necessity)**

5. Wells Fargo alleges as an affirmative defense that any alleged acts or omissions of Wells Fargo that gave rise to Plaintiff's alleged claims were and are justified by a legitimate business necessity and/or other legitimate non-discriminatory reason.

**SIXTH AFFIRMATIVE DEFENSE**

**(Consent/Acquiescence)**

6. Wells Fargo alleges as an affirmative defense that Plaintiff acquiesced in and/or consented to the acts and omissions alleged in the Complaint herein, including by accepting any and all loan terms and conditions disclosed to plaintiff by Wells Fargo.

**SEVENTH AFFIRMATIVE DEFENSE**

**(No Discriminatory Practice)**

7. Wells Fargo alleges as an affirmative defense that it has not engaged in any discriminatory practices as alleged in the Complaint and that discriminatory intent was not a factor in determining the terms or conditions of any loan made to Plaintiff.

**EIGHTH AFFIRMATIVE DEFENSE**

**(No Disparate Impact)**

8. Wells Fargo alleges as an affirmative defense that its loan policies and procedures do not have a disparate impact on minority borrowers that is not related to risk-based factors.



**NINTH AFFIRMATIVE DEFENSE**

**(Fault of Others)**

9. Wells Fargo alleges as an affirmative defense that Plaintiff's damages, if any, were proximately caused and/or contributed to by the acts, omissions, negligence and/or intentional misconduct of third parties, and were not caused by Wells Fargo.

**TENTH AFFIRMATIVE DEFENSE**

**(No Damages)**

10. Wells Fargo alleges as an affirmative defense that Wells Fargo has committed no act or omission causing damage to Plaintiff.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Speculative Damage)**

11. Wells Fargo alleges as an affirmative defense that the damages claimed by Plaintiff in the Complaint are too speculative to support any cognizable claim for relief.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

12. Wells Fargo alleges as an affirmative defense that Plaintiff has failed, refused and/or neglected to take reasonable steps to mitigate her alleged damages, if any, thus barring or diminishing any recovery.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(No Sufficient Intent)**

13. Wells Fargo alleges as an affirmative defense that Wells Fargo had no sufficient intent for the commission of the matters alleged in the Complaint and did not act with intent to discriminate against Plaintiff.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Standing)**

14. Wells Fargo alleges as an affirmative defense that Plaintiff does not have standing to bring the causes of action alleged in her Complaint because she was not discriminated against and did not pay any fee or interest rate unrelated to creditworthiness or risk.

**WHEREFORE**, Wells Fargo prays for judgment as follows:

1. That Plaintiff take nothing by reason of her Complaint;
2. That no class be certified in this action;
3. For its costs of suit herein;
4. For its attorneys' fees according to proof; and
5. For such other and further relief as this Court may deem just and proper.

Dated: January 4, 2008

Respectfully submitted,

**WELLS FARGO BANK, N.A.**  
*Defendant*

By: /s/ David Z. Smith  
One of Its Attorneys

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 4, 2008, I electronically filed the foregoing **DEFENDANT WELLS FARGO BANK, N.A.'S ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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